

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

3:08cv565  
(3:06cr115)

ASHLEY T. BROOKS, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 UNITED STATES OF AMERICA, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

**ORDER**

**THIS MATTER** comes before the Court upon the Petitioner's Motion to Vacate, Set Aside, or Correct Sentence (Doc. No. 1) and Petitioner's Motion to Supplement Initial § 2255 Motion (Doc. No. 2).


Petitioner has requested that he be allowed to supplement his pending Motion to Vacate. As Petitioner is not seeking to include events that have happened since he filed his Motion to Vacate, his motion is more properly construed as a motion to amend. Rule 15 of the Federal Rules of Civil Procedure governs the procedure for amending § 2255 motions. Absent bad faith, undue prejudice to the opposing party, or futility of amendment, leave to amend under Rule 15(a) shall be freely given. See Forman v. Davis, 371 U.S. 178, 182 (1962). No response has been filed to Petitioner's Motion to Vacate. Therefore, Petitioner's Motion is granted.

After careful review of the motion and case file, the undersigned finds that the United States Attorney should file an Answer detailing the allegations contained in Petitioner's Motion to Vacate and his Motion to Supplement and responding to each.

**THEREFORE, IT IS HEREBY ORDERED that:**

1. Petitioner's Motion to Supplement § 2255 Motion (Doc. No. 2) is **GRANTED**; and
2. No later than forty (40) days from the filing of this Order the United States Attorney shall file an Answer to Petitioner's Motion to Vacate, Set Aside, or Correct Sentence and his Motion to supplement detailing Petitioner's allegations and responding to each.

Signed: April 24, 2009

  
Robert J. Conrad, Jr.  
Chief United States District Judge

